

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARK ANTHONY CANDLER,

No. C 11-01992 CW (PR)

Plaintiff,

ORDER OF DISMISSAL WITH LEAVE  
TO AMEND; DIRECTING CLERK OF  
COURT TO PROVIDE PLAINTIFF WITH  
CIVIL RIGHTS COMPLAINT FORM

v.

SANTA RITA COUNTY JAILS WATCH  
COMMANDER, et al.,

Defendants.

INTRODUCTION

Plaintiff, a state prisoner currently incarcerated at Pelican Bay State Prison, filed the instant pro se civil rights action under 42 U.S.C. § 1983 complaining about the conditions of his confinement when he was incarcerated at the Santa Rita County Jail (SRCJ). He has paid the filing fee.

A federal court must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may be granted or seek monetary relief from a defendant who is immune from such relief. See id. § 1915A(b)(1), (2). Pro se pleadings must, however, be liberally construed. See Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1988).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting

1 under color of state law. See West v. Atkins, 487 U.S. 42, 48  
2 (1988). Under § 1983, liability may be imposed on an individual  
3 defendant only if the plaintiff can show that the defendant  
4 proximately caused the deprivation of a federally protected right.  
5 See Leer v. Murphy, 844 F.2d 628, 634 (9th Cir. 1988).

6 For the reasons discussed below, Plaintiff's complaint is  
7 dismissed with leave to amend.

#### 8 DISCUSSION

9 Plaintiff makes the following allegations in his complaint:

10 1. There was no reason provided to me as to why it was  
11 necessary to place me in segregation. I sent several  
12 message request forms & still no Resident Information  
Report issue to me. I feel the defendants did not comply  
with procedural due process.

13 2. Secondly, I believe it is cruel & unusual punishment  
14 for me to come out my cell two to three hours out of 168  
15 hours per week. I should allowed to shower at least  
every other day. Due to this unhealthy program, I have  
developed rashes & scars on my backside.

16 3. Mental stress & paranoia.

17 4. I will amend more defendants later, because I'm not  
18 sure of their exact name at this time.

19 Compl. at 3:10-22.

20 Plaintiff identifies as Defendants the "Santa Rita County  
21 Jails Watch Commander" and "Commanding Officer D. Sanchas." He  
22 seeks unspecified injunctive relief and damages.

23 Rule 8(a) of the Federal Rules of Civil Procedure requires  
24 that the complaint set forth "a short and plain statement of the  
25 claim showing that the pleader is entitled to relief." A complaint  
26 that fails to state the specific acts of the defendant that  
27 violated the plaintiff's rights fails to meet the notice  
28 requirements of Rule 8(a). See Hutchinson v. United States, 677  
F.2d 1322, 1328 n.5 (9th Cir. 1982). Additionally, Rule 8(e)

1 requires that each averment of a pleading be "simple, concise, and  
2 direct." See McHenry v. Renne, 84 F.3d 1172, 1179 (9th Cir. 1996).  
3 While the federal rules require brevity in pleading, a complaint  
4 nevertheless must be sufficient to give the defendants "fair  
5 notice" of the claim and the "grounds upon which it rests."  
6 Erickson v. Pardus, 551 U.S. 89, 93 (2007) (quotation and citation  
7 omitted).

8 Here, Plaintiff's claims cannot proceed as plead because  
9 Plaintiff has not provided sufficient facts for the Court to  
10 determine whether he states a cognizable claim for relief.  
11 Plaintiff does not explain, for example, the restrictions to which  
12 he was subjected, the length of time he was allowed only two  
13 showers a day and the reasons given for such restriction, the  
14 nature of the "mental stress & paranoia" he suffered and the  
15 response, or lack thereof, by SRCJ staff. Additionally, Plaintiff  
16 has linked no Defendant or any other individual to his allegations  
17 and an identifiable injury. Plaintiff's request for injunctive  
18 relief is moot now that he no longer is incarcerated at the SRCJ.

19 Accordingly, Plaintiff's complaint is DISMISSED for failure to  
20 state a cognizable claim for relief. Plaintiff may file an amended  
21 complaint in which he (1) alleges sufficient facts for the Court to  
22 determine whether he states a claim for the violation of his  
23 constitutional rights, and (2) clearly links Defendants to the  
24 alleged injury or injuries for which the Defendants are alleged to  
25 be responsible.

26 CONCLUSION

27 For the foregoing reasons, the Court orders as follows:

- 28 1. Plaintiff's complaint is DISMISSED.

1        2.     Within thirty (30) days from the date of this Order,  
2 Plaintiff may file an amended complaint in order to cure the  
3 deficiencies noted above. Plaintiff shall use the court's civil  
4 rights complaint form, a copy of which is provided herewith, and  
5 include in the caption both the case number of this action,  
6 No. C 11-01992 CW (PR), and the heading "AMENDED COMPLAINT."

7        If Plaintiff fails to timely file an amended complaint in  
8 conformity with this Order, the case will be dismissed without  
9 prejudice and will be closed.

10       3.     It is Plaintiff's responsibility to prosecute this case.  
11 Plaintiff must keep the Court informed of any change of address and  
12 must comply with the Court's orders in a timely fashion. Failure  
13 to do so may result in the dismissal of this action, pursuant to  
14 Federal Rule of Civil Procedure 41(b), for failure to prosecute.

15       4.     The Clerk of the Court shall provide Plaintiff with a  
16 blank civil rights complaint form.

17       IT IS SO ORDERED.

18       Dated: 10/7/2011

  
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CLAUDIA WILKEN

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

MARK A. CANDLER,  
Plaintiff,

Case Number: CV11-01992 CW

**CERTIFICATE OF SERVICE**

v.

SANTA RITA COUNTY JAIL et al,  
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 7, 2011, I SERVED a true and correct copy(ies) of the attached and **a blank civil rights complaint form**, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Mark Anthony Candler AF7322  
Pelican Bay State Prison  
P.O. Box 7500  
Crescent City, CA 95532

Dated: October 7, 2011

Richard W. Wieking, Clerk  
By: Nikki Riley, Deputy Clerk

United States District Court  
For the Northern District of California